

IOWA RACING AND GAMING COMMISSION
JULY 12, 2012
MINUTES

The Iowa Racing & Gaming Commission (IRGC) met on Thursday, July 12, 2012 at Prairie Meadows Racetrack and Casino (PMR&C), Altoona, Iowa. Commission members present were Jeff Lamberti, Vice Chair, and members Carl Heinrich, Kristine Kramer, Dolores Mertz, and Greg Seyfer.

Vice Chair Lamberti called the meeting to order at 8:30 AM and requested a motion to approve the agenda. Commissioner Mertz moved to approve the agenda as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Vice Chair Lamberti called on Gary Palmer, General Manager of PRM&C, who welcomed the Commission to the facility, noting this was the first Commission meeting to be held at PMR&C. He expressed his hope there would be many more. He also introduced Lynette Rasmussen, Chair of the Board of Directors for PMR&C.

Vice Chair Lamberti moved to the approval of the minutes from the Commission's June 7, 2012 meeting. Commissioner Seyfer moved to approve the minutes as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Vice Chair Lamberti called on Brian Ohorilko, Administrator of IRGC, for announcements. Mr. Ohorilko provided the following information regarding future Commission meetings:

- August 23, 2012 – Riverside Casino & Golf Resort, Riverside, IA (Submissions due by August 9, 2012)
- September 27, 2012 – Hotel Julien, Dubuque, IA (Submissions due by September 13, 2012)
- October, 2012 – No Commission Meeting
- November 15, 2012 – Stoney Creek Inn, Johnston, IA (Submissions due by November 1, 2012)
- December, 2012 – No Meeting

Vice Chair Lamberti moved to the election of the Chair and Vice Chair for Fiscal Year 2013. Commissioner Mertz moved to elect Vice Chair Lamberti and Commissioner Seyfer to serve as Chair and Vice Chair respectively. Commissioner Heinrich seconded the motion, which carried unanimously. Vice Chair Lamberti and Commissioner Seyfer abstained from voting. (See Order No. 12-73)

Chair Lamberti called on Gaming Laboratories, International (GLI). Mr. Ohorilko introduced James Maida, President and founder of GLI, which tests gaming equipment in

over 450 gaming jurisdictions. He advised that the Commission utilizes GLI for a number of regulatory functions including technology, certifying gaming equipment against technical standards, field staff training in the most up-to-date technology, network risk assessment and field testing.

Mr. Maida noted that he had been at PMR&C approximately ten years ago to provide some training, and was pleased to see the amount of change since that time. He advised that GLI has a unique numbering system for each file that comes in; the first two numbers represent the number of the client. Iowa is number seven. GLI currently has over 500 clients globally. Mr. Maida stated that GLI works for the regulators under rules set by the regulators, but are paid by the suppliers under rules set by the regulators. He indicated the company is backgrounded annually. Mr. Maida advised that the company has twenty offices globally, plus an office in Kansas City, Missouri. He stated that most of the gaming equipment utilized in Iowa is tested in the United States. He advised that GLI issues 120,000 gaming equipment certifications annually, has received ISO 17025 and 17020 accreditations, and support is available 24/7. With regard to GLI's relationship with the Commission, Mr. Maida stated that the parties have worked together since 1992; and there is almost daily communication on field issues, rule comments or new technology. GLI has certified in excess of 17,000 pieces of software for the Commission. Mr. Maida advised that an average of 4,000 items are submitted for testing in Iowa annually; they have also conducted five forensic examinations. He further advised they are continually improving their testing process, and in 2011 only 0.17% of certifications were revoked. GLI conducted on-site inspections at all of the Iowa properties in 2008, 2009 and 2010, as well as risk assessments at two of the properties in 2011. Mr. Maida briefly touched on the types of testing GLI performs globally and in Iowa; and the different "tools" that GLI has available to assist their clients. Mr. Maida congratulated the State of Iowa for writing a very forward-thinking, very specific paper on iGaming, and what would happen if it was legalized in Iowa. He stated that it was one of the first major white papers on iGaming. He stated that GLI sees iGaming; Social gaming; Play-for-Fun and Play-for-Money becoming more popular. Mr. Maida stated that GLI has no position on internet gaming, but do believe that it has to be secure to insure that players are not colluding or cheating. He provided brief descriptions on how the other future gaming options would function. Mr. Maida thanked the Commission for allowing him to appear before them.

Hearing no comments or questions for Mr. Maida, Chair Lamberti called on the Isle of Capri for an update on the negotiations for the sale of the Rhythm City property. Stacy Hall, legal counsel, advised that negotiations are ongoing, and have reached a point where the potential buyer is trying to enter into agreements with the city and the qualified sponsoring organization. Ms. Hall stated that IOC is hopeful those negotiations are going well.

Chair Lamberti called on Penn National Gaming/Missouri River Historical Development (Penn/MRHD) regarding their request for the approval of an extension to the Operating Agreement. Curt Beason, legal counsel for MRHD, advised that the MRHD Board has

approved two different extensions of the Operating Agreement with Penn; one that expires on March 31, 2013 and the other on March 31, 2015. Mr. Beason stated that the agreement extension before the Commission for consideration is the one expiring on March 31, 2015. He stated that the Board would be meeting next Monday to discuss other matters regarding either extension.

Chair Lamberti called on a representative for Penn. Carl Sottosanti, VP of Legal Affairs, and Steve Snyder, Sr. VP of Development, were present to address the Commission. Mr. Sottosanti stated that Penn concurred with MRHD that the only contract before the Commission for consideration is the extension of the Operating Agreement to March 31, 2015; that they have not been offered an extension through March 31, 2013. He indicated the longer contract would provide some security for the employees.

Chair Lamberti stated that he didn't think the Commission's actions at the June meeting were unclear; however, based on the questions he has received, that apparently is not the case. He noted that at the March meeting the Commission stated that in order to continue moving forward certain conditions needed to be met. One of the top concerns for the Commission is to maintain the 300+ jobs at the facility. At the June meeting, the Commission opened the Woodbury County license up for a new land-based facility. They also indicated their desire to insure that the current facility remains open until the new land-based facility is ready to be opened; again the main concern being the preservation of the existing jobs. Chair Lamberti stated that the Commission has now been presented with a request to approve an extension of the Operating Agreement to March 31, 2015. He expressed concern over the date as he feels it is somewhat arbitrary; the licensing process is in its early stages and it is too early to determine when the land-based facility might open. Chair Lamberti reiterated the Commission's desire to keep the current facility open until the land-based facility is ready to open; they are hesitant to approve a date that appears to be arbitrary. He asked Penn and MRHD if they would agree and approve an extension of the Operating Agreement to March 31, 2013, which would tie the date to the license date; and everyone could revisit where the process is at that time.

Mr. Sottosanti stated Penn's preference for the March 31, 2015 date; indicating that the longer term contract will be beneficial to all of the constituents and provide some continuity for the employees. He stated that if for some reason the process should go slower or in a more expedited manner, then the Commission could use their regulatory discretion to adjust the ending date. Mr. Sottosanti reiterated their preference for the Commission to approve the extension of the operating agreement through March 31, 2015.

Chair Lamberti again asked if Penn would agree to sign off on an extension of the operating agreement to March 31, 2013 if that is the action taken by the Commission.

Mr. Snyder stated that Penn has not been tendered an offer to extend the operating agreement through March 31, 2013.

Chair Lamberti advised that the Commission understood, but again questioned whether Penn would agree to an extension to March 31, 2013.

Mr. Snyder stated that the suggestion has been made that March 31, 2015 is an arbitrary date. He indicated that he feels March 31, 2013 is also an arbitrary date. He noted there are some employees who have worked at the property for 20 years; they are looking for security or an understanding of what the future holds for them. Mr. Snyder stated that the March 31, 2015 extension provides a reasonable time frame for the process to unfold. He reiterated that Penn has not been offered an extension of the operating agreement to March 31, 2013, nor have they been asked to consider one until today. Mr. Snyder requested that the Commission act on the agreement extension submitted for approval, which is March 31, 2015.

Chair Lamberti asked MRHD if they were willing to accept an extension of the operating agreement to March 31, 2013. Mr. Beason advised that MRHD has authorized an extension to March 31, 2013. He noted that if the Commission approves an extension to that date, no further action by MRHD would be necessary.

Commissioner Seyfer noted that Chair Lamberti had stated that the goal of the Commission is to make sure that there is an operation in Sioux City; and they are willing to do everything within their authority and power to do so. He again asked if Penn would agree to an extension of the operating agreement through March 31, 2013.

Mr. Snyder stated that the March 31, 2013 date would be a disservice to their employees. He stated that Penn has never been faced with managing a facility to closure or revocation. Mr. Snyder stated that Penn is not in a position today to accept a contract that has not been tendered to them. He stated they could not accept an extension to the operating agreement that would expire on March 31, 2013.

Commissioner Seyfer noted that licenses are renewed on an annual basis; this is no different than where the parties are at every year. He again requested a "Yes" or "No" answer from Penn with respect to whether they would accept a March 31, 2013 date. Mr. Snyder answered "No".

Chair Lamberti stated that what they are requesting is difficult and unprecedented in terms of where the process is at; however, the Commission has clearly indicated their desire to preserve the jobs and will create new extensions if necessary in order to keep the current facility open until the new land-based facility is ready to open in Woodbury County. He stated that the Commission has done everything within their power today. Chair Lamberti stated that the facility will not close on March 31, 2013 or any other day due to any action taken by the Commission today. He noted that the Commission has started the application process and doesn't have any idea of the timeline for construction, opening date, etc. Chair Lamberti stated that what he is hearing from Penn is that the operating agreement has to be extended to March 31, 2015 or nothing.

Mr. Sottosanti stated that Penn is not suggesting that by approving the contract extending the operating agreement to March 31, 2015 that the Commission could not modify the closing or opening date; they are only saying that is the contract that should be approved. He stated that Penn agrees with the comments of the Commission that the licensee will follow its ordinary course in the discretion of the Commission in March 2013, the next March and the March after that.

Chair Lamberti moved to approve an extension of the operating agreement to March 31, 2013 pending an agreement of the parties within a reasonable timeframe following this meeting. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 12-74)

Mr. Snyder asked what message Penn should convey to their employees should they fail to enter into an agreement that goes through March 31, 2013.

Chair Lamberti advised that what they tell the employees is up to them; they have a decision to make between entering into an extension of the operating agreement through March 31, 2013 or not to enter into said agreement. He stated that if they do not enter into the extension of the operating agreement to March 31, 2013, they would not be in compliance with Iowa law. Mr. Snyder stated that he understood.

Commissioner Seyfer asked if the Commission needed to establish a reasonable timeframe for the parties to comply. Mr. Ohorilko advised they would have thirty days from the execution of the contract to seek Commission approval. Mr. Ohorilko asked Jeff Peterzalek, Assistant Attorney General for the Commission, if there was any date or time by which the parties needed to act, or if it could be taken up at the August Commission meeting. Mr. Peterzalek concurred that the Commission could take action at the August meeting, which would comport with the "reasonable timeframe". He suggested the Commission may want to clarify the order.

Chair Lamberti amended his previous motion to approve an extension of the operating agreement to March 31, 2013 pending an agreement of the parties by the August 23, 2012 Commission meeting. Commissioner Heinrich concurred with the amendment.

Chair Lamberti moved to the approval of the distribution of the Dog Racing Promotion Fund as authorized by Iowa Code §99D.12(2)C. Nick Mauro, legal counsel for the Iowa Greyhound Association, advised that they were the lone applicant for the funds. He stated that the application details how the funds received last year were used and how they are projected to be utilized in the next fiscal year.

Hearing no comments or questions concerning the application for the funds, Chair Lamberti requested a motion. Commissioner Seyfer moved to approve the distribution of the Dog Racing Promotion Fund to the Iowa Greyhound Association contingent upon the following conditions:

1. The recipient shall provide an evaluation of the agreement(s) with, and performance by, the investment manager annually and consider soliciting and evaluating new proposals if they are under performing. This evaluation should be provided in an annual audit of the Escrow Account(s) by an independent audit company. The audit should cover activity from January 1, 2012 through December 31, 2012, and be submitted to the Iowa Racing and Gaming Commission by April 1, 2013.
2. The cost of the annual audit of the Escrow Account(s) shall be paid from the Escrow Account Fund(s).
3. Investment agreements should be for one-year terms subject to renewal conditions approved by the Commission. Provide a report on the status of the investment agreements.
4. Requests for proposals and all other correspondence should include a copy to IRGC and IWRA.
5. The recipient shall disclose any potential related parties to the Commission.
6. Investment funds shall not be withdrawn from the account(s) until the Commission has approved contracts or expenses. If events occur which no longer require expenditure of funds, the funds will be immediately returned to the Escrow Account(s) and not deposited in any other account(s).
7. The recipient shall have and maintain written minutes of all meetings and include copies to the IRGC and IWRA.
8. In the event of arbitration, the recipient shall ensure availability to the arbitration committee so that decisions are provided to the Commission by November 1, 2012.

Commissioner Kramer seconded the motion, which carried unanimously. (See Order no. 12-75)

Chair Lamberti called on the Iowa Horsemen's Benevolent & Protection Association (IHBPA) for a discussion regarding Advanced Deposit Wagering (ADW). John Moss, President, and Tom Levis, legal counsel, were present to address this matter with the Commission. Mr. Moss started by reading a memorandum sent to the Commissioners by Leroy Gessmann, President of the IHBPA (copy attached).

Commissioner Seyfer questioned whether the Commission had the authority to take action based on the way the statute is worded if the ADW companies are not accepting bets from Iowa customers on Iowa races.

Mr. Levis stated the companies are basically taking bets from Iowans on their computers on the races at Churchill Downs or at other tracks than PMR&C. He stated that Iowans are placing money with this operator, and the operator is not being regulated in Iowa. Mr. Levis stated that he believes IRGC was established to govern all gambling in Iowa; and that the IHBPA is willing to work with the IRGC to promulgate rules regarding ADW to get the operator licensed in the State of Iowa. Mr. Levis stated that the IHBPA believes the Commission has the authority to take the requested action.

Mr. Moss stated that prior to legislation, there was no governance. Senator Jeff Danielson encouraged the horsemens' groups to request legalization of ADW, which led to the proposal to legalize online poker. Mr. Moss stated that anyone currently operating within Iowa without a license is skirting the law, as well as violating the offset and trespass laws. He stated his belief that the Commission has the ability to establish rules and set a penalty.

Chair Lamberti stated that the Commission has some concerns about where its authority begins and ends. He stated that he agrees that the situation in Iowa is not what the Iowa legislature intended at the time they adopted the statute; however, legislative intent is not something that can be relied upon or taken to the court house to try and uphold your position. Chair Lamberti stated that he personally does not like the situation; that the situation needs to be regulated more effectively; that this appears to be a loophole in the law. In his opinion, the law says that if an ADW company is accepting wagers from Iowans but not on races at PMR&C then the company is not violating Iowa law. Chair Lamberti stated that is an issue that is in need of a legislative remedy more than a Commission remedy. Chair Lamberti stated that it is an issue the Commission would want the legislature to fix; that outside very specific legislation, he is not sure the Commission, as a regulatory body, has the authority to adopt rules in this area according to his reading of the law at this time.

Mr. Levis stated that he was hearing Chair Lamberti say that the Commission would not consider making rules regarding ADW on races other than those run at PMR&C.

Chair Lamberti stated that the Commission has looked into this issue, and will continue to do so in order to determine if the Commission has the authority. He noted that everyone believes there is a "gray" area in the legislation, and at this time, the Commission is not sure that it is a regulatory fix. Chair Lamberti stated that the Commission would be happy to work with the legislature to fix this issue. He reiterated the Commission's primary concern is that they do not have the power or authority to fix the issue. Chair Lamberti stated that the Commission is not saying they approve of or like the situation, they just are not sure they have jurisdiction in this area.

Chair Lamberti moved to the contract portion of agenda, and called on Ameristar Casino. Monty Terhune, General Manager, presented a contract with US Foods as a food vendor.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by Ameristar Casino. Commissioner Kramer seconded the motion, which carried unanimously. (See Order No. 12-76)

Chair Lamberti called on Rhythm City Casino. Ms. Hall presented a contract with JCM American Corporation for UBA and Plastic Cash Boxes for the slot machines.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by Rhythm City Casino. Commissioner Seyfer seconded the motion, which carried unanimously. (12-77)

Chair Lamberti called on Diamond Jo Worth (DJW). Kim Pang, General Manager, presented a contract with AJR Equities for event merchandise (giveaways).

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Seyfer moved to approve the contract as submitted by DJW. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 12-78)

Chair Lamberti called on Harrah's, noting that the contract with D&B Construction, Inc. has been removed from consideration. Janae Sternberg, Chief Financial Officer, presented the following contracts for Commission approval:

- Commonwealth Electric Co. – Construction Work
- HGM Associates, Inc. – Construction Work
- Waldinger Corporation – Construction Work

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by Harrah's. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 12-79)

Chair Lamberti called on Isle of Capri Bettendorf (IOCB). Ms. Hall presented the following contracts for Commission approval:

- Aramark – Provides Linen and Laundry Services
- Giesecke & Devrient – Purchase of Two C4 Count Room Machines, Header Card System and Tables
- Unum Life Insurance – Life, Long Term and Short Term Disability Insurance

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by IOCB.

Commissioner Kramer seconded the motion, which carried unanimously. (See Order No. 12-80)

Chair Lamberti called on Grand Falls Casino Resort (GFCR). Joe Massa, Chief Operating Officer, presented the following contracts for Commission approval:

- Creative Artists Agency, LLC – Entertainment Talent Booking Agency
- Marsh USA, Inc. – Insurance Premiums; Event Cancellation Insurance
- Wells Fargo Bank, National Association – Refinance Commitment
- William Morris Endeavor Entertainment, LLC – Entertainment Talent Booking Agency

He advised that the contract with Creative Artists Agency is an Iowa company; they marked the wrong box on the contract.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Seyfer moved to approve the contracts as submitted by GFCR. Commissioner Kramer seconded the motion, which carried unanimously. (See Order No. 12-81)

Chair Lamberti called on Horseshoe Casino/Bluffs Run Greyhound Park (HC/BRGP). Ms. Sternberg presented a contract with Absolutely Fresh Seafood for the purchase of fresh seafood.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by HC/BRGP. Commissioner Kramer seconded the motion, which carried unanimously. (See Order No. 12-82)

Chair Lamberti called on PMR&C. Mr. Palmer presented the following contracts for Commission approval:

- Capital Sanitary Supply – Housekeeping Supplies and Equipment
- Charles Gabus Ford – Purchase of Cars, Trucks and Parts
- Gitchi Gaming, Inc. – Gaming Equipment
- Hasler Inc. – Mailing Equipment Lease
- Incredible Technologies – Purchase of Slot Games and Parts
- Inteconnex – Hotel Surveillance System
- Mechdyne Corporation – Casino Audio Retrofit
- Perficut Lawn and Landscape Inc. – Lawn Care Services
- Day at the Track, LLC – Advance Deposit Wagering Agreement

Chair Lamberti advised that the Commission had received communication regarding the contract with Gitchi Gaming, Inc. for the purchase of gaming chairs, which advised that there is an Iowa company that has worked with PMR&C previously.

Mr. Palmer advised that the PMR&C Purchasing Office met with different groups prior to selecting this vendor. He noted that PMR&C utilizes Iowa vendors as much as they can.

Commissioner Seyfer noted that the contract indicates the product is not available from an Iowa vendor.

Ann Atkin, Vice President/COO, stated that the vendors brought in sample chairs prior to the selection. PMR&C had requested that a number of employees sit on the chairs to help determine which would be the most comfortable for patrons.

Hearing no further comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by PMR&C. Commissioner Mertz seconded the motion, which carried unanimously. (See Order No. 12-83)

Chair Lamberti moved to Public Comment. Wes Ehrecke, President of the Iowa Gaming Association, advised that Responsible Gaming Week will be held from July 30 – August 3. He noted that research indicates that 98% of individuals who go to the casinos are able to treat it as entertainment; however, there is 1-2% of the population who are problem gamblers and need assistance. Mr. Ehrecke stated that the treatment providers work very closely with the properties during this week to provide training to the staff, and make sure that information concerning treatment providers and other available programs is available at all of the facilities.

Chair Lamberti moved to Administrative Business and called on Mr. Ohorilko to discuss the application timeline for Woodbury County. Mr. Ohorilko advised that the timeline is similar to previous timelines when the Commission has gone through the application process. He noted that the Commission will not be soliciting a market study in this case; the market is Woodbury County. Mr. Ohorilko stated that the process will be fair and open; and that all meetings with the exception of the background investigation reports are open to the public. The timeline is as follows:

- July 2, 2012 – The application was made available on the Commission's website.
- November 1, 2012 – Applications are due in the Commission's office. Once the applications have been submitted, they cannot be amended. Additionally, the applicants will not be allowed to contact the Commission members directly. These policies do not prevent the Commission members from asking questions that may require supplement information to be submitted in order to clarify the application.

- November 15, 2012 – The applicants will submit and make presentations concerning the financing of the proposed project. Firm commitments are expected by this date.
- January 10, 2013 – The applicants will be allowed 45 minutes to give a presentation about their proposed project. Commission members will not be asking questions at this time.
- March 6, 2013 – The Division of Criminal Investigation will present their suitability reports in executive session.
- March 26, 2013 – The Commission will visit the proposed sites of the applicants. The applicants will have 45 minutes to make a presentation to the Commission members at their respective sites. Following the tour of the sites, the Commission will hold a Public Hearing to receive comments from individuals not associated with the application process. The public hearing will be followed by a Question and Answer session from the Commission members.
- April 18, 2013 – The Commission will make a decision at their regularly scheduled meeting.

Mr. Ohorilko advised that the timeline would be posted on the Commission's website.

Commissioner Seyfer noted that the timeline as set forth is pretty much the same timeline as used in the past. Mr. Ohorilko stated that it mirrors the application process utilized in 2004 and 2009.

Hearing no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Seyfer so moved. Commissioner Kramer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK

To: All Iowa Racing and Gaming Commissioners and interested parties
From: William Leroy Gessmann, President, Iowa Horsemen's Benevolent and Protective Association

The Iowa Horsemen's Benevolent and Protective Association and Iowa's horse industry have encountered some important issues that the industry has not been able to resolve relating to the implementation of the recently approved Advanced Deposit Wagering provisions in Iowa law.

For those of you new to the Commission, contentious issues between Iowa's horse industry and the racetrack often dominated Commission activities before the passage of Senate File 526 in 2011. That bill codified an agreement between the track and the three horsemen associations that raced at the track.

A key component of that agreement was asking the legislature to approve Advanced Deposit Wagering to generate sufficient new revenue to make the agreement equitable to the involved parties.

Based on evidence that much of the actual betting on horse racing is not conducted at the physical track in Altoona, the legislature did enact enabling legislation that allowed the Commission to establish rules for Advanced Deposit Wagering. This was an attempt to capture revenue that was being generated by out of state companies that were not contributing to the horse racing industry within our state.

The legislature went even further by enacting the attached language found in Section 99D.11 of the Iowa code. This language was devised to provide an equitable and fair negotiation between the prospective Advance Deposit Wagering licensee, the track, and the horse industry.

Yet after passage of this law, unlicensed Advanced Deposit Wagering providers continue to take bets from Iowans everyday. These operators are attempting to skirt the provisions of the law by not taking bets from their customers in Iowa on races at the Altoona track, and by remaining unlicensed even after the legislature acted.

The Iowa Code is very clear that the legislature intended the Iowa Racing and Gaming Commission to regulate all gambling in the state. The language in 99D.11 (1) is very explicit regarding wagering on horse races. It states that "except as permitted in this section, the licensee shall permit no wagering on the results of the races." The two exceptions are for simulcasting at the track and for wagers placed through Advanced Deposit Wagering.

The legislature again clearly states in 99D.11(6) that "all wagering shall be conducted within the racetrack enclosure where the licensed race is held, except as provided in paragraphs "b" and "c". Sections B and C are the simulcast and Advanced Deposit Wagering provisions.

(2) For the purposes of this section, "advanced deposit wagering" means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering. Of the net revenue, less all taxes paid and expenses directly related to account deposit wagering incurred by the licensee of the horse racetrack located in Polk county, received through advanced deposit wagering, fifty percent shall be designated for the horse purses created pursuant to section 99D.7, subsection 5, and fifty percent shall be designated for the licensee for the pari-mutuel horse racetrack located in Polk county.

(3) Before granting an advanced deposit wagering operator license to an entity other than the licensee of the horse racetrack located in Polk county, the commission shall enter into an agreement with the licensee of the horse racetrack located in Polk county, the Iowa horsemen's benevolent and protective association, and the prospective advanced deposit wagering operator for the purpose of determining the payment of statewide source market fees and the host fees to be paid on all races subject to advanced deposit wagering. The commission shall establish the term of such an advanced deposit wagering operator license.

Such an advanced deposit wagering operator licensee shall accept wagers on live races conducted at the horse racetrack in Polk county from all of its account holders if it accepts wagers from any residents of this state.

(4) An unlicensed advanced deposit wagering operator or an individual taking or receiving wagers from residents of this state on races conducted at the horse racetrack located in Polk county is guilty of a class "D" felony.